

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
JOHN G. PEDICINI,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-12395-JLT
)	
UNITED STATES OF AMERICA,)	
et al.,)	
)	
Defendants.)	
_____)	

**DEFENDANTS' RENEWED MOTION TO DISMISS PLAINTIFF'S APA COUNT
AS A MATTER OF LAW, OR, IN THE ALTERNATIVE,
TO CONSOLIDATE TRIAL ISSUES**

The United States hereby moves to **dismiss** Plaintiff's Administrative Procedure Act (hereinafter, the "APA") claim as a matter of law for the reasons asserted in *Defendant's Further Memorandum on Count II(B)* (filed in April 2007 and still pending before this Court). In the alternative, the United States asks this Court to **consolidate** the second and third surviving issues for trial because both the non-compliance and breach of settlement agreement claims are based on the same alleged acts.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

BY: /s/ Gina Walcott-Torres
GINA WALCOTT-TORRES
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
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Dated: July 31, 2007

CERTIFICATE OF SERVICE

I certify that on July 31, 2007, I caused a copy of the foregoing document to be served on *pro se* Plaintiff, John G. Pedicini, 10 Milano Drive, Saugus, MA 01906, by first class mail, postage pre-paid.

/s/ Gina Walcott-Torres
GINA WALCOTT-TORRES
Assistant U.S. Attorney

CERTIFICATE OF COMPLIANCE WITH LOC. R. 7.1(A)(2)

I certify that I have complied with the requirements of Loc. R. 7.1(A)(2).

/s/ Gina Walcott-Torres
GINA WALCOTT-TORRES
Assistant U.S. Attorney